

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 396 (Delegate Feldmark, *et al.*)
Economic Matters and Ways and Means

Tax - Fees for Electronic Filing of Tax Documents - Prohibition (Free Filing Act of 2023)

This bill prohibits a tax return preparer or a software company from charging a separate fee for the electronic filing of authorized tax documents. The bill also prohibits a software company from selling a version of the company's tax software that charges a separate fee for the electronic filing of authorized tax documents and a version of the same tax software that does not charge the separate fee. The Comptroller must impose a civil penalty of \$500 for a first violation and \$1,000 for each subsequent violation. Fine revenues must be paid into the general fund. A person may seek a review of the penalty pursuant to the Maryland Administrative Procedures Act.

Fiscal Summary

State Effect: General fund revenues increase, beginning in FY 2024, to the extent civil penalties are imposed and collected. The bill is not anticipated to materially affect the finances or operations of the Judiciary. No effect on expenditures.

Local Effect: None.

Small Business Effect: Potential meaningful. Small businesses that prepare tax documents may be subject to civil penalties if they violate the provisions of the bill.

Analysis

Bill Summary: The bill defines the following terms:

- *authorized tax document* – is a tax document that the Comptroller has authorized or requires to be filed electronically;
- *software company* – is a developer of tax software;
- *tax document* – is a return, a report, or any other document relating to a tax;
- *tax return preparer* – is a person, including a payroll service, who prepares for compensation, or who employs or engages one or more persons to prepare for compensation, an authorized tax document; and
- *tax software* – is a computer software program intended for tax return preparation purposes, including an off-the-shelf software program loaded onto a tax return preparer’s or taxpayer’s computer or an online tax preparation application.

Current Law: The regulatory functions of some State agencies are accomplished through various occupational and professional boards, commissions, and programs. The laws regulating these professions are found primarily in the Business Occupations and Professions Article and the Business Regulation Article.

The general functions of the various regulatory entities include reviewing applications; administering examinations; issuing licenses, permits, registrations, or certificates; and investigating complaints from the public. Each regulatory entity has the authority to issue licenses, permits, registrations, or certificates based on standards specified in State law and established by the regulatory entity.

Accountants

The State Board of Public Accountancy regulates and licenses individuals acting as certified public accountants and issues permits to business entities that provide public accountancy services. Practicing certified public accountancy means, among other things, to (1) conduct an audit or (2) provide a written certificate or opinion offering positive or negative assurance or full or limited assurance on the correctness of the information or on the fairness of the presentation of the information in certain documentation.

To qualify for a license, an applicant must meet certain educational and experience criteria and pass the Uniform Certified Public Accountant Examination. Additionally, a firm that has an office in the State and either uses the title of certified public accountant (CPA) as “CPA” or “CPA firm” or performs certain services must have a permit issued by the board. To qualify for a permit, a firm must meet certain requirements depending on the type of firm.

The board issued 10,775 licenses in fiscal 2021.

Individual Tax Preparers

The State Board of Individual Tax Preparers regulates and registers individual tax preparers. Providing individual tax preparation services means to prepare, advise, or assist in the preparation of, or assume final responsibility for, another person's preparation of a federal or State income tax return.

To register with the board, an individual must meet specified age and character requirements, be a high school graduate, and pass an examination equivalent to the Special Enrollment Examination prepared by the Internal Revenue Service.

The board issued 1,241 licenses in fiscal 2021.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Office of Administrative Hearings; Department of Legislative Services

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